

REMARKS/ARGUMENTS

Claims 5, 12, and 20-25 are active. An apparent typographical error at the bottom of page 13 of the specification has been corrected. Support for this correction is apparent in the sentence containing the error as well as in the preceding paragraph which describes the volatility of (B-1).

Claim 12 has been revised to be in independent form and still requires the application of the liquid skin protective composition by spraying. Support for this claim is found in the Examples, see e.g., Table I on page 25.

Claims 20-23 depend from claim 12 and refer to particular components exemplified in the specification. A water content not more than 1 wt.% is described at the last two lines on page 16.

Claims 24 and 25 track the limitations in prior claims 2 and 5.

In view of the support pointed out above, the Applicants believe that the Examiner will find that no new matter has been introduced.

Favorable consideration of this amendment in light of the remarks below and allowance of the case are respectfully requested.

Objection

Claim 10 was objected to as being improper form. This issue is now moot.

Rejection—35 U.S.C. §112, second paragraph

Claim 8 was rejected under 35 U.S.C. 112, second paragraph, as being indefinite. This issue is also moot.

Rejection—35 U.S.C. §103(a)

Claims 1, 2, 5, 8, 10, 11, 15, 17 and 18 were rejected under 35 U.S.C. 103(a) as being unpatentable over JP 07-277923. This rejection no longer applies to the method claims and may be withdrawn for the composition claims because the cited reference does not disclose or suggest compositions which provide compatibility between components (A) and (B). This rejection is moot for composition claims 1, 2, 5, 8, 10, 17 and 18 and for method claims 11 and 15 which have been cancelled. This rejection was not applied to method claim 12, which requires administration by spraying. All the pending claims are method claims depending on claim 12. Accordingly, this rejection would not apply to the present claims.

The method of claim 12 requires a sprayable composition not disclosed, nor suggested by the prior art.

The Applicants provide below a reference table showing the comparative viscosities of various chemical materials. Based on the values shown in the reference table (<http://hypertextbook.com/physics/matter/viscosity/>), it is not reasonable to assert that the solid (e.g., lipstick) and semi-solid (e.g., lip cream) [0014] have viscosities at 25°C of not more than 70 mPa·s. For example, solidified hydrocarbons, such as lard and shortening have viscosities of 1,000,000 and 1,200,000 mPa·s (1,000 and 1,200 Pa).

Viscosities of Selected Materials (note the different unit prefixes)

simple liquids	T (°C)	η (mPa·s)	gases	T (°C)	η (μ Pa·s)
alcohol, ethyl (grain)	20	1.1	air	15	17.9
alcohol, isopropyl	20	2.4	hydrogen	0	8.42
alcohol, methyl (wood)	20	0.59	helium	0	18.6
blood	37	3 - 4	nitrogen	0	16.7
ethylene glycol	25	16.1	oxygen	0	18.1
ethylene glycol	100	1.98			
freon 11 (propellant)	-25	0.74	complex materials	T (°C)	η (Pa·s)
freon 11 (propellant)	0	0.54	caulk	20	1000
freon 11 (propellant)	+25	0.42	glass, room temperature		10^{18} - 10^{21}

freon 12 (refrigerant)	-15	??	glass, strain point		10 ^{13.6}
freon 12 (refrigerant)	0	??	glass, annealing point		10 ^{12.4}
freon 12 (refrigerant)	+15	0.20	glass, softening		10 ^{8.6}
glycerin	20	1420	glass, working		10 ³
glycerin	40	280	glass, melting		10 ²
mercury	15	1.55	honey	20	10
milk	25	3	ketchup	20	50
oil, vegetable, canola	25	57	lard	20	1000
oil, vegetable, canola	40	33	molasses	20	5
oil, vegetable, corn	20	65	mustard	25	70
oil, vegetable, corn	40	31	peanut butter	20	150 - 250
oil, vegetable, olive	20	84	sour cream	25	100
oil, vegetable, olive	40	??	syrup, chocolate	20	10 - 25
oil, vegetable, soybean	20	69	syrup, corn	25	2 - 3
oil, vegetable, soybean	40	26	syrup, maple	20	2 - 3
oil, machine, light	20	102	tar	20	30,000
oil, machine, heavy	20	233	vegetable shortening	20	1200
oil, motor, SAE 10	20	65			
oil, motor, SAE 20	20	125			
oil, motor, SAE 30	20	200			
oil, motor, SAE 40	20	319			
propylene glycol	25	40.4			
propylene glycol	100	2.75			
water	0	1.79			
water	20	1.00			
water	40	0.65			
water	100	0.28			

Moreover, the prior art did not suggest how to interblend ingredients (A) and (B) to make a **sprayable** skin care composition having the desirable properties imparted by both of these ingredients. As disclosed at the top of page 17 of the specification, sprayable compositions have a low viscosity such as “not more than 70 mPa•s”.

The invention overcomes the problem of interblending these two ingredients by adding volatile ingredient (B-1). By successfully interblending ingredients (A) and (B-2), the inventors provide a skin care composition that is **easy to spray**. However, to provide such a sprayable composition, a careful selection of ingredients (B-1) and (B-2) had to be made so as to provide a composition where ingredient (A) and ingredient (B-2) can be successfully interblended.

Since (B-1) is volatile, it provides excellent spreadability when first applied, but evaporates after spraying thus suppressing undesired diffusion of the composition after initial application. After volatilization of (B-1), ingredient (A) remains on the skin protecting it, and ingredient (B-2) provides water resistance and skin lubrication (e.g., reduce friction), see page 13 of the specification. On the other hand, compositions containing only (A) cause undesirable stickiness in the absence of (B-2). The prior art does not provide a reasonable expectation of success for providing such a sprayable composition by interblending (A) and (B-2) in the presence of (B-1). Accordingly, did not disclose all the elements of the composition used in the claimed methods, suggest interblending of ingredients (A) and (B-2) using (B-1) to produce a sprayable composition, and did not provide a reasonable expectation of success for the superior sprayability and skin protective properties provided by the claimed method. For all of the reasons above, this rejection does not apply to the present claims.

Rejection—35 U.S.C. §103(a)

Claims 1, 2, 5, 8, 10-12 and 15-18 were rejected under 35 U.S.C. 103(a) as being unpatentable over JP 07-277923, in view of Ziemelis, et al., U.S. 4,472,566. This rejection may be withdrawn for the reasons given above for JP 07-277923. The secondary reference, Ziemelis, was cited as disclosing **spraying** polydiorganosiloxane compositions, see e.g., page 6 of the OA mailed October 1, 2008. However, like the primary reference, Ziemelis does not

disclose the compositions used by the claimed method, or suggest how to interblend ingredients (A) and (B-2) in the presence of (B-1) and does not provide a reasonable expectation of success for a method of spraying these compositions. Thus, this rejection cannot be sustained.

Rejection—35 U.S.C. §103(a)

Claims 1, 2, 5, 8, 10-13, 15, 17 and 18 were rejected under 35 U.S.C. 103(a) as being unpatentable over JP 07-277923, in view of Ziemelis, et al., U.S. 4,472,566 and further in view of Smith, et al., U.S. 6,001,380. This rejection may be withdrawn for the same reasons given above for JP 07-277923 and Ziemelis.

Smith is not material to a method of spraying and was applied for teaching an **applicator sheet impregnated** with a composition for delivery to the skin, see page 7 of the OA dated October 1, 2008. Smith teaches products well-adapted to simultaneously deliver two or more chemically or physically **incompatible** active ingredients and use of such a system for treatment to disorders like acne, dermatitis, insect bites, and diaper rash (col. 2, lines 57-65). The ingredients of Smith are incompatible and Smith is not concerned with how to compatibly interblend them. Smith is silent about how to produce a sprayable composition by interblending ingredients (A) and (B-2) in using (B-1) and cannot provide a reasonable expectation of success for the invention. Thus, these teachings are not material to the present method claims which involve spraying a particular type of skin care composition and as a result, this rejection cannot be sustained.

Rejection—35 U.S.C. §103(a)

Claims 1, 2, 5, 8, 10, 11 and 13-18 were rejected under 35 U.S.C. 103(a) as being unpatentable over JP 07-277923, in view of Ziemelis, et al., U.S. 4,472,566 and Smith, et al., U.S. 6,001,380, and further in view of Tate, et al., U.S. 2003/0130635. This rejection was not applied to claim 12 and therefore is not applicable to the present method claims depending from claim 12.

Moreover, this would not apply to the present claims for the reasons given above for Ziemelis and Smith. The additional secondary reference, Tate, was cited to show application of compositions using a **disposable absorbent article** like a diaper or wound dressing and is not material to the present method claims which require spraying. Therefore, this rejection is inapplicable to the present claims.

Rejection—35 U.S.C. §103(a)

Claims 1, 2, 5, 8, 10, 11, 15 and 17-19 were rejected under 35 U.S.C. 103(a) as being unpatentable over JP 07-277923, in view of Ziemelis, et al., U.S. 4,472,566 and Smith, et al., U.S. 6,001,380, and further in view of Okada, et al., U.S. Patent No. 5, 463,009. This rejection is inapplicable to the present claims which all depend from claim 12, which was not subject to this rejection. Also, this rejection is not sustainable for the reasons given above for Ziemelis and Smith.

The additional secondary reference, Okada, was cited to establish that other ingredients, like liquid paraffin, may be admixed with a block polymer component such as ingredient (A) of the invention. However, it did not suggest how to how to produce a composition interblending ingredients (A) and (B-2) in a sprayable form using (B-1), nor provide a reasonable expectation of success for the claimed methods which employ the

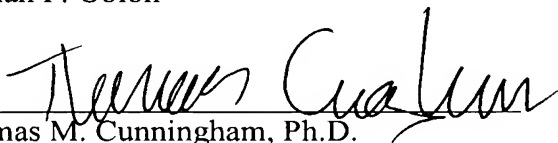
superior properties of the sprayable composition of the invention. Thus, this rejection would not apply to the pending claims.

Conclusion

In view of the amendments and remarks above, the Applicants respectfully submit that this application is now in condition for allowance. An early notice to that effect is earnestly solicited.

Respectfully submitted,

OBLON, SPIVAK, McCLELLAND,
MAIER & NEUSTADT, P.C.
Norman F. Oblon



Thomas M. Cunningham, Ph.D.
Registration No. 45,394

Customer Number

22850

Tel: (703) 413-3000
Fax: (703) 413 -2220
(OSMMN 08/07)